

# MINUTES

## **REGULAR MEETING OF THE NEWTON CITY COUNCIL – APRIL 20, 2010**

The regular meeting of the Newton City Council was held on Tuesday, April 20, 2010 at 7:00 p.m. in the Council Chambers at City Hall with the following present: Mayor Robert A. Mullinax and Council Members Wayne Dellinger, Mary Bess Lawing, Tom Rowe, Bill Lutz, Robert C. Abernethy, Jr. and Mayor Pro Tem Anne Stedman.

Also in attendance were City Manager Todd Clark, City Attorney Larry Pitts, City Clerk Beunice R. “Bootsie” Roberts, members of the Management Team, City Department Heads, and Planner Ben McCrary.

### **ITEM 1. CALL TO ORDER – ROBERT A. MULLINAX:**

Mayor Mullinax called the meeting to order and welcomed everyone to the meeting.

### **ITEM 2. OPENING – MAYOR PRO TEM ANNE STEDMAN:**

Mayor Pro Tem Anne Stedman gave the invocation and led the audience in the Pledge of Allegiance.

### **ITEM 3. APPROVAL OF MINUTES FROM THE APRIL 6, 2010 REGULAR COUNCIL MEETING AND THE FEBRUARY 18, 2010 COUNCIL PLANNING WORK SHOP MINUTES – DAY 1:**

A motion was made by Mayor Pro Tem Anne Stedman, seconded by Council Member Mary Bess Lawing, and unanimously adopted to approve the minutes of the April 6, 2010 regular Council meeting and the February 18, 2010 Council Planning Work Shop Minutes – Day 1 as submitted.

### **ITEM 4. CONSIDERATION OF CONSENT AGENDA ITEMS:**

A motion was made by Council Member Bill Lutz, seconded by Council Member Robert C. Abernethy, Jr., and unanimously adopted to approve the Consent Agenda items as presented.

#### **A. Consideration of Arbor Day Proclamation**

#### **B. Consideration of Resolution to name Ray Rainbird as an “Honorary Citizen” of the City of Newton**

### **RESOLUTION #14-2010**

#### **RESOLUTION TO NAME MR. RAY RAINBIRD AS HONORARY CITIZEN OF THE CITY OF NEWTON**

WHEREAS, Mr. Ray Rainbird, who is a resident of the United Kingdom, has been a welcome visitor in the City of Newton for the past three months;

WHEREAS, Mr. Rainbird has immersed himself in the Newton community through both volunteerism, civic activity, and patronage;

WHEREAS, Mr. Rainbird has volunteered regularly at The Corner Table, assisted two mornings each week at the Montessori School, and worked over 15 hours to help make the recent “Music and Mud” festival a success;

WHEREAS, Mr. Rainbird has also become a regular rider on the Greenway Public Transportation bus, a patron of the Catawba County Library, a pottery student at the NewArt School, and a regular customer at Pin Station Bowling Center;

WHEREAS, Mr. Rainbird has truly demonstrated the attributes of a resident of the City of Newton through his actions, attitude, and ability;

NOW, THEREFORE, I, Mayor Robert A. Mullinax and the City Council of the City of Newton, North Carolina, do hereby resolve to bestow the honor of “Honorary Citizen of the City of Newton” to Mr. Ray Rainbird as an expression of our appreciation and sincere best wishes on the occasion of his most welcome visit to the City of Newton.

Mayor Robert A. Mullinax

ATTEST:

Beunice R. Roberts, CMC/City Clerk

**ITEM 5. PUBLIC HEARING:**

**A. Consideration of Zoning Ordinance Text Amendment #2010-01  
Animal Hospitals and Veterinary Clinics in B-2 Districts**

Mayor Mullinax recessed the Council meeting and called to order a public hearing as previously scheduled and advertised, to consider Zoning Ordinance Text Amendment #2010-01 Animal Hospitals and Veterinary Clinics in B-2 Districts as requested by J. Dale Lafone.

Planner Ben McCrary said that currently, Animal Hospitals and Veterinary Clinics are permitted uses in the B-4 General Business District of which two clinics operate in the city limits of Newton, the Newton Veterinary Clinic on 1220 East NC 10 Hwy. and the Newton-Conover Animal Hospital at 1529 Northwest Blvd. Mr. McCrary said that the proposed amendment would expand the geographic area and would allow animal hospitals and veterinary clinics on all properties zoned B-2, Highway Business. Mr. McCrary reviewed the location map included in the agenda to show the areas where B-2 and B-4 districts are located, as well as, explained the purpose and intent of the B-2 Hwy. Business Zoning Districts and the applicable supplemental regulations for Animal Hospitals and Veterinary Clinics.

Mr. McCrary said that B-2 Hwy. Business Districts are intended to establish suitable development standards for the provision of convenience goods, shoppers' goods, and services at locations along major transportation routes to the motoring public, both local and transient. Mr. McCrary said that the City of Newton is the only jurisdiction that does not

list Animal Hospitals and Veterinary Clinics as permitted uses in its Hwy. Business Districts. He said that Mr. Lafone said that the zoning request is reasonably necessary due to the lack of veterinary services and appropriately zoned land available in the Startown area.

There was a brief discussion on the uses that are allowed in the B-2 Hwy. Business District, mentioning that in 1990 when the Planning Commission re-evaluated the list of uses in each district, the Planning Commission wanted to define each zoning district as “unique” and limited the number of uses in every district.

Mayor Pro Tem Anne Stedman referenced that the property in question was recently rezoned for a car dealership. Mr. McCrary said that normally the B-2 Highway Business District does not allow Animal Hospitals and Veterinary Clinics, which is the reason for the text amendment request. Council Member Wayne Dellinger noted that the B-2 Highway Business District allows a car dealership, which Mr. McCrary confirmed that it does.

Mayor Mullinax said that Mayor Pro Tem Stedman was referring to the NC Hwy. 10 West Land Development Plan and asked what impact this text amendment would have on it. Mr. McCrary said that the Plan concerns land development and any new development or re-development and would only address the patterns of development, not the permitted uses.

Council Member Robert C. Abernethy, Jr. said that Catawba County and other cities in Catawba County rules are different from the City of Newton, and asked if the City of Newton’s rules are more restricted. Mr. McCrary said that he could not speak for the other cities, but that with regard to this particular use, the City of Newton’s zoning ordinance is more restrictive.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak on the Zoning Ordinance Text Amendment request.

Ms. Terri Taylor stated that she was an attorney and spoke on behalf of Mr. and Mrs. Matt Pennell, who are the interested parties involved in the Lafone’s request. Ms. Taylor asked the Council to consider approval of the Zoning Ordinance Text Amendment request as presented.

Mayor Mullinax closed the public hearing and called the Council meeting back into session.

A motion was made by Council Member Wayne Dellinger, seconded by Council Member Bill Lutz, and unanimously adopted to approve Zoning Ordinance Text Amendment #2010-01 to allow Animal Hospitals and Veterinary Clinics in the B-2 District.

**(ORDINANCE #2010-9 IS HEREBY REFERENCED AND  
ON FILE IN THE OFFICE OF THE CITY CLERK)**

**ITEM 6. COMMENTS FROM THE PUBLIC: (PERSONS WANTING TO MAKE A  
PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN  
IN WITH THE CITY CLERK PRIOR TO THE MEETING):**

Mayor Mullinax asked if there was anyone in the audience who wanted to speak on a non-agenda item, and no one appeared to speak.

**ITEM 7. OLD BUSINESS:**

None.

**ITEM 8. NEW BUSINESS:**

**A. Presentation of Economic Development Marketing Folder**

Planning Director/Assistant City Manager Glenn J. Pattishall presented a beautifully designed and color coordinated marketing folder specially made by ElectriCities of North Carolina for the City of Newton, and at no cost to the City. He said that the marketing folder is designed to assist the City in its economic development efforts and to market the City for other opportunities, as well.

Mr. Pattishall reviewed the contents of the folder, which include demographic facts about the City of Newton, available properties for sale and/or lease, and a special area to insert a personal business card. Mr. Pattishall said that the Planning and Economic Development Staff could modify the information included in the marketing folder according to the needs of the prospect. He said that Rob Powell, Commercial Development Coordinator has distributed the marketing folder at several conferences and meetings to assist in marketing the City, as well as, to show that the City has up-to-date information to share with interested persons, businesses, or industries.

Council Member Mary Bess Lawing said that the folders are a great marketing tool for the City, and was pleased with the help from ElectriCities with the project.

Mayor Mullinax asked if any of the information could be available on the City's website, and Mr. Pattishall said that it could.

City Manager Todd Clark said that ElectriCities did all of the design and prepared the marketing folders per Mr. Pattishall's initiative. He said that Mr. Pattishall was very instrumental in the outcome of the folder.

Mr. Pattishall said that the City was given 500 folders to distribute, as it deems necessary.

Mayor Mullinax said that the marketing folders are the types of tools that the City needs to help in its efforts to market the City and to attract those interested persons and/or businesses/industries to the City of Newton. He and the Council thanked Mr. Pattishall for the marketing folders and all his effort.

**B. Consideration of LED lighting**

Director of Public Works and Public Utilities Wilce Martin gave an update on the LED lights (Light-Emitting Diode) which have been installed around City Hall and on West 4<sup>th</sup> Street and North Main Avenue several months ago. He gave a brief description of the LED lights and said that the difference between the lights that are currently used and the LED lights is that the LED lights use 50% less electricity than the traditional street light. He said that 90% of the lights currently being used on the street lamps and in the downtown are high pressure sodium lights with an amber tint.

Mr. Martin requested that the Council inspect the lights around City Hall to see what they think of them. Mr. Martin said that the LED lights show more clarity and that they give 70,000 hours of service (16 years, 12 hours per day, 7 days per week). He said that the LED lights last four times longer than the regular lights used and will help on the maintenance costs by 50%.

Mr. Martin said that the Staff is going to apply for an Energy Efficiency Grant. He said whether or not the City receives the grant, the Staff is looking to change out all lights around the City and hopes that the City is approved for a grant.

Mayor Mullinax asked the cost of a light fixture set. Mr. Martin said that the Staff found light fixtures for \$600 each. Assistant Director of Public Works and Public Utilities Doug Wesson said that the saving with the lights is in the maintenance costs.

Mayor Pro Tem Anne Stedman asked how difficult it is to install the new lights. Mr. Martin explained the process and said that it is not difficult to install the lights.

City Manager Todd Clark said that the Staff is requesting that the Council endorse the conversion of LED lights as needed, and apply for an Energy Efficiency Grant.

Council Member Wayne Dellinger asked if the Staff was asking for approval of the concept to apply for a grant, but not to approve changing the lights. Mr. Martin said that the Staff would like the Council's approval to apply for a grant - that the Staff is not going to change all the lights at the same time.

There was a brief discussion on the cost, warranties on the lights, and the grant application. Mayor Mullinax said that the City has to do something to conserve energy regardless of receiving grant funds, that the situation is a maintenance issue, not a major expenditure. He recommended that the Staff make application for the Energy Efficiency Grant and to let the Council decide what type of lights would be used. Mayor Mullinax asked the Staff to get specific costs analysis on the LED lights. Mayor Mullinax said that the City has had energy audits conducted, the City has promoted energy audits, and is a part of the North Carolina League of Municipalities energy programs and there is not a reason that the City should not have energy efficient lighting with or without grant approval.

Council Member Bill Lutz said that there are lights down Main Avenue and College Avenue that goes on and off, and asked what the proper reporting process is. Mr. Martin said to call Public Works or to use the "Report A Problem," and to make sure that the address, location, and pole number is provided.

It was the consensus of the Council for the Staff to apply for an Energy Efficiency Grant to assist with the LED lighting project.

**C. Report on mowing City properties and right-of-ways by City Staff**

Director of Public Works and Public Utilities Wilce Martin reported that he talked with NCDOT Representative Jackie McSwain about mowing the City's right-of-ways. Mr. Martin said that City Staff mows thirteen NCDOT right-of-ways in the City limits two to three times per year, and contracts mowing and trimming on several downtown right-of-ways. He

said due to budget constraints, the Staff is discontinuing the contracting mowing and will do the mowing themselves.

Mr. Martin reviewed the savings to the City by discontinuing mowing the Department of Transportation's right-of-ways and discontinuing the contract mowing to be \$22,272 a year, which includes personnel costs for \$832 and equipment costs for \$2,880, and mowing six times per year. Mr. Martin said that DOT only mows their right-of-ways two or three times per years if the City does not mow the right-of-ways first. Mr. Martin also said that the mowing and edging for the downtown is contracted out for \$11,000 per year. He said that if the City Staff does the mowing for the downtown area, it would cost \$7,422 for personnel and equipment per year resulting in a savings of \$3,578, with combined savings costs of \$25,850 for all the mowing and edging of right-of-ways and the downtown area by City Staff.

Mr. Martin said that Ms. McSwain said she is waiting to hear from the District Engineer on whether he wants to do a maintenance contract with the City. She said that the maintenance contract would authorize the City of Newton to provide all maintenance on the NCDOT right-of-ways and bill NCDOT for the work up to a certain amount, and anything beyond that fixed amount would be the City's responsibility.

Council Member Tom Rowe said that the City has done a good job on mowing the right-of-ways and that he would like the Staff to continue mowing the right-of-ways. He said that the Staff should wait on a response from Ms. McSwain to see if NCDOT would help with the cost.

Council Member Robert C. Abernethy, Jr. asked Mr. Martin what would be the structure of a contract, if he has seen the City of Hickory's contract, and if the contract would be re-negotiated annually. Mr. Martin said that the City of Hickory specifies particular requests in their contract, and that the City of Newton would have to decide on specifics and a cost agreement with NCDOT as well. He said after that process, the contract would be reviewed by the City Manager and City Attorney, and presented to the Council for approval.

**D. Consideration of bids for asbestos removal and demolition of Central High School Cafeteria and expansion of parking lot; and approval of related Budget Ordinance**

City Manager Todd Clark said that the Council recently approved a Non-Residential Maintenance Ordinance to ensure the maintenance, sanitation, and safety of all non-residential buildings within the City limits of Newton. He said that Fire Chief Kevin Yoder and his Staff have identified several areas around the City in violation of the Non-Residential Maintenance Ordinance, including the old Central High School Cafeteria, owned by the City. City Manager Clark said that Fire Chief Yoder and his Staff were authorized to investigate the property and to get cost estimates to have the structure demolished.

City Manager Clark said that the Staff has obtained bids for the removal of asbestos from the structure, demolition of the structure, and disposal of the resulting debris. He reviewed the photographs of the property with the Council, as well as Option 1 to extend the parking lot to accommodate citizens using the Central Recreation Center and Head Start, and Option 2 for future use. He said that the Staff is not recommending Option 2, but included it in the bidding process.

City Manager Clark said that the lowest responsible bids for the project are as follow:

Asbestos Removal	\$10,675	Demolition & Asbestos Removal Inc.
Demolition & Disposal	\$10,000	DH Griffin Wrecking
Grading and Paving	\$45,260	J.T. Russell and Sons
Contingency (10%)	<u>\$ 6,594</u>	
Total	\$72,529	

Purchasing Agent Ed Epley said that the bid from Precision Paving Inc. for final grade work and paving was not considered because it does not include all the work that is required prior to final paving. He said that the contractor did not want to haul in and compact the soil.

Council Member Tom Rowe and Council Member Robert C. Abernethy, Jr. questioned the need for expansion of the parking lot, which City Manager Clark said that additional parking is needed for the numerous City and community activities held at the Central Recreation Center and the Head Start Program.

Council Member Robert C. Abernethy, Jr. suggested filling the area with gravel to save money.

Council Member Robert C. Abernethy, Jr. asked if members of the community were in favor of the demolition project. Parks and Recreation Director Sandra Waters said that the late Johnny Gabriel requested improvements made in that area, as well as several of the churches requested the same.

City Manager Clark said that he, Mayor Mullinax, and Police Chief Don Brown attended a meeting of the East Newton Neighborhood Task Force recently, and the members expressed the need for something to be done with the old cafeteria property. He confirmed Ms. Waters' statement that the late Johnny Gabriel, before he passed away, expressed concerns about the condition of the property.

Council Member Mary Bess Lawing said that money is tight and if the Council is going to approve the project, to do it correctly, not do ten spaces now and ten more spaces later and possibly have to resurface the entire area.

City Manager Clark said that the Staff recommends consideration of the Council to award the bids as submitted by the respective contractors and to adopt a Budget Ordinance to appropriate the funds for the Central High School Cafeteria demolition project for \$72,550.

A motion was made by Council Member Mary Bess Lawing, seconded by Mayor Pro Tem Anne Stedman, and unanimously approved to award the bids as presented to Demolition and Asbestos Removal Inc., DH Griffin Wrecking, and J.T. Russell & Sons for asbestos removal and demolition of Central High School Cafeteria and expansion of parking lot (Option 1) and approval of related Budget Ordinance.

**(ORDINANCE #2010-10 IS HEREBY REFERENCED**

**AND ON FILE IN THE OFFICE OF THE CITY CLERK)**

**E. Consideration of Budget Ordinance to amend Revenues and Expenditures for Roof Improvements at the Recreation facility (main)**

City Manager Todd Clark reported that the Council approved \$70,000 for roof improvements for the Newton Recreation Center (main) in the Fiscal Year 2009-2010 Budget. City Manager Clark said that it was the Staff's intent to use borrowed funds for the financing of the roof project, which included the replacement of the HVAC System at the Central Recreation Center, but the bid for the HVAC System was over the budget; therefore, the Staff decided not to borrow the funds. However, after further review and that this would be the only roof project, the Staff recommended utilizing fund balance in lieu of financing for the main recreation center roofing project.

City Manager Clark said that the lowest, responsible bid on the roofing project is with Ballard Roofing for \$67,400, and paying for it out of Fund Balance would be a step towards a "pay-as-you-go" process.

Council Member Mary Bess Lawing asked when the last time the roof was replaced. Parks and Recreation Director Sandra Waters said that it has been 15 years since the roof was replaced.

There was a brief discussion on using funds from Fund Balance, but City Manager Clark assured the Council that he and Finance Director Serina Hinson discussed the funding process and did not feel that it was inappropriate. City Manager Clark asked for the Council's consideration to adopt a Budget Ordinance to amend revenues and expenditures for roofing improvements at the Newton Recreation Center (main).

A motion was made by Council Member Mary Bess Lawing, seconded by Council Member Tom Rowe, and unanimously adopted to approve a Budget Ordinance in the amount of \$70,000 to amend revenues and expenditures for roofing improvements at the Newton Recreation Center (main).

**(ORDINANCE #2010-11 IS HEREBY REFERENCED AND  
ON FILE IN THE OFFICE OF THE CITY CLERK)**

**F. Consideration and Approval of Resolution for re-financing existing lease/purchase financing with BB&T Governmental Finance in accordance with NCGS 160A-20**

In the absence of the Finance Director Serina Hinson, City Manager Todd Clark reported that Finance Director Hinson was authorized to look at any current financing that could be refinanced in a manner that would be favorable to the City. In her research, Mrs. Hinson identified five existing loans with BB&T. City Manager Clark said that BB&T Governmental Finance was the only institution to submit to the City's request. He said that the re-financing of the loans changes the terms of the original agreement by modifying the interest rates with BB&T Governmental Finance on each of the loans, but did not modify the length of the payoff terms. City Manager Clark said that BB&T Government Finance has

offered very competitive rates on the loan re-financing. He said that there would not be any out-of-pocket expense and the Staff would not be borrowing any new money.

Attorney Pitts confirmed that normally, no fees are involved in governmental re-financing. Mayor Mullinax confirmed that this process is just a rate reduction and no fees out of pocket.

A motion was made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem Anne Stedman, and unanimously adopted to approve the re-financing with BB&T Government Finance on five existing loans with BB&T Government Finance and to adopt a Resolution approving the terms of the re-financing.

## **RESOLUTION #15-2010**

### **Resolution Approving Terms of Re-financing**

**WHEREAS**, the City of Newton, North Carolina (the "City") has determined to change the terms of the Payment Schedules to those Financing Agreements (the "Original Agreements"), for the benefit of Branch Banking and Trust Company ("BB&T"), dated as of July 30, 2004 and March 27, 2007; and

**WHEREAS**, the changes to the terms of the Payment Schedules of the Original Agreement include amending the interest rates from 3.79% to 2.68% for contracts #016 and #017, include amending the interest rate from 3.97% to 3.07% for contracts #018 and #023, and include amending the interest rate from 3.97% to 2.68% for contract #031;

**NOW, THEREFORE BE IT RESOLVED** by the governing body of the City of Newton, North Carolina that the proposed changes to the Payment Schedules of the Original Agreements are hereby approved and the officers designated to sign financing documents are hereby authorized and directed to take such action as may be necessary to effectuate such changes. All other terms and conditions of the Original Agreements and the Payment Schedules thereof remain in full force and effect.

Adopted this 20th day of April 2010.

Attestation:

Robert A. Mullinax, Mayor

Beunice R. Roberts, CMC/City Clerk

### **ITEM 9. CITY MANAGER'S REPORT:**

City Manager Todd Clark reported that he is preparing the Fiscal Year 2010-2011 Budget for Council's discussion.

### **ITEM 10. QUESTIONS AND COMMENTS FROM MAYOR AND COUNCIL:**

None.

**ITEM 11.      CLOSED SESSION TO DISCUSS A PERSONNEL MATTER (G.S. 143-318.11 (a) (6), AND TO CONSULT WITH THE CITY ATTORNEY ON ECONOMIC DEVELOPMENT (G.S. 143-318.11 (a) (4))**

Mayor Mullinax stated that the Council needed to have a Closed Session to discuss a personnel matter and to consult with the City Attorney on Economic Development.

A motion was made by Mayor Pro Tem Anne Stedman, seconded by Council Mary Bess Lawing, and unanimously approved that the Council go into Closed Session.

After the Closed Session, Mayor Mullinax called the Council meeting back into regular session.

A motion was made by Council Member Wayne Dellinger, seconded Council Member Tom Rowe, and unanimously approved the employment contract of the City Manager to be extended until his employment date anniversary in February 2015.

**ITEM 12.      ADJOURNMENT:**

There being no further business to discuss, a motion was made by Council Member Bill Lutz, seconded by Council Member Mary Bess Lawing, and unanimously approved that the April 20, 2010 meeting be adjourned.

Respectfully submitted by:

Robert A. Mullinax, Mayor

Beunice R. (Bootsie) Roberts, CMC/City Clerk